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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 LORENZO CARL PAYNES,

No. 2:04-cv-01868-MCE-KJM P

12 Plaintiff,

13 vs.

ORDER

14 D.L. RUNNELS, et al.,

15 Defendants.
16 _____/

17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
19 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

20 On August 29, 2008, the magistrate judge filed findings and recommendations herein
21 which were served on all parties and which contained notice to all parties that any objections to
22 the findings and recommendations were to be filed within twenty days. Plaintiff has filed
23 objections to the findings and recommendations.

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304,
2 this court has conducted a de novo review of this case. Having carefully reviewed the entire file,
3 the court finds the findings and recommendations to be supported by the record and by proper
4 analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed August 29, 2008, are adopted in full;
- 7 2. The action is dismissed as to defendant Woodford because of plaintiff's
8 failure to prosecute. Fed. R. Civ. P. 41(b); and
- 9 3. The motion to dismiss (docket no. 43) is denied as to the claim that defendant Tuffin
10 opened plaintiff's cell door, leading to an assault and as to the claim defendants Runnels and
11 Felker failed to provide appropriate housing for him, but granted as to the claim that the
12 defendants conspired to cover-up staff misconduct.

13 Dated: September 30, 2008

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15 MORRISON C. ENGLAND, JR.
16 UNITED STATES DISTRICT JUDGE
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